

# EXHIBIT C

# GIZMODO

## Uber Drivers in California Will Be Employees, Not Contractors (Updated)



Kate Knibbs

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49.5K



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An Uber driver is an employee, not a contractor, according to a ruling from the California labor commission. This is horrible news for Uber but good news for anyone concerned that the ruthless ride-hailing service is building a corporate empire by dicking over its drivers.

Uber insists that it's a merely a tech company peddling a mobile platform that happens to connect drivers with riders, not a driving service. That's a convenient way to think about the service, since it means Uber can shrug off the responsibility of treating its growing supply of drivers like they work for the company.

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Semantics aside, this ruling makes it clear that Uber is a service that employs drivers.

“The defendants hold themselves out as nothing more than a neutral technological platform, designed simply to enable drivers and passengers to transact the business of transportation,” the commissioner wrote. “The reality, however, is that defendants are involved in every aspect of the operation.”

The ruling came after a San Francisco-based former Uber driver Barbara Berwick filed a claim against the company. Uber will have to pay her \$4000 in business expenses for her stint driving for them.

Even though Uber tries to paint itself as a matchmaking platform for riders and drivers, it sets strict controls on how drivers conduct their business. Uber sets fare rates and prohibits drivers from collecting tips, and it has rules about what kind of cars they can drive. It’ll also boot drivers who receive low ratings on the app. As the ruling pointed out, that heavy level of control fits the profile of an employer.

While this ruling is just about Berwick, it will give drivers ammo in other cases, especially in California. This isn’t the first time Uber drivers have tried to get employee status; some Uber drivers have filed a class action lawsuit in order to be considered employees instead of contractors. And in May, a Florida agency ruled that a former Uber driver injured on the job was an employee.

That doesn’t mean that every Uber driver will be happy with this ruling. Many people driving as a side gig could be hemmed in by an “employee” designation, since 1099 workers have more flexibility. The divide between agreeing or disagreeing with the ruling may come down to whether a driver is picking rides up as a side gig or extra cash, or whether they’re attempting to eke out a living.



This is bad news for Uber because it's in the company's best interest to stay a "tech" company. The current model maximizes how much money Uber can make without being saddled with employment responsibilities.

This ruling means Uber may have to start doing stuff like paying for social security and medicare taxes for eligible drivers in California, and it could incentivize drivers in other states to make claims for similar employee standing. It's a blow to the contractor economy.

Uber is appealing the ruling.

**Update:** Uber pointed out that the ruling only applies to one driver. "Reuters' original headline was not accurate. The California Labor Commission's ruling is non-binding and applies to a single driver," a spokesperson said. "Indeed it is contrary to a previous ruling by the same commission, which concluded in 2012 that the driver 'performed services as an independent contractor, and not as a bona fide employee.' Five other states have also come to the same conclusion. It's important to remember that the number one reason drivers choose to use Uber is because they have complete flexibility and control. The majority of them can and do choose to earn their living from multiple sources, including other ride sharing companies."

[Reuters]

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*Public PGP key*

*PGP fingerprint: FF8F 0D7A AB19 6D71 C967 9576 8C12 9478 EE07 10C*

*Image via Getty*

# NYC Has Impounded 500 Uber Cars Since April for Picking Up Illegal Fares



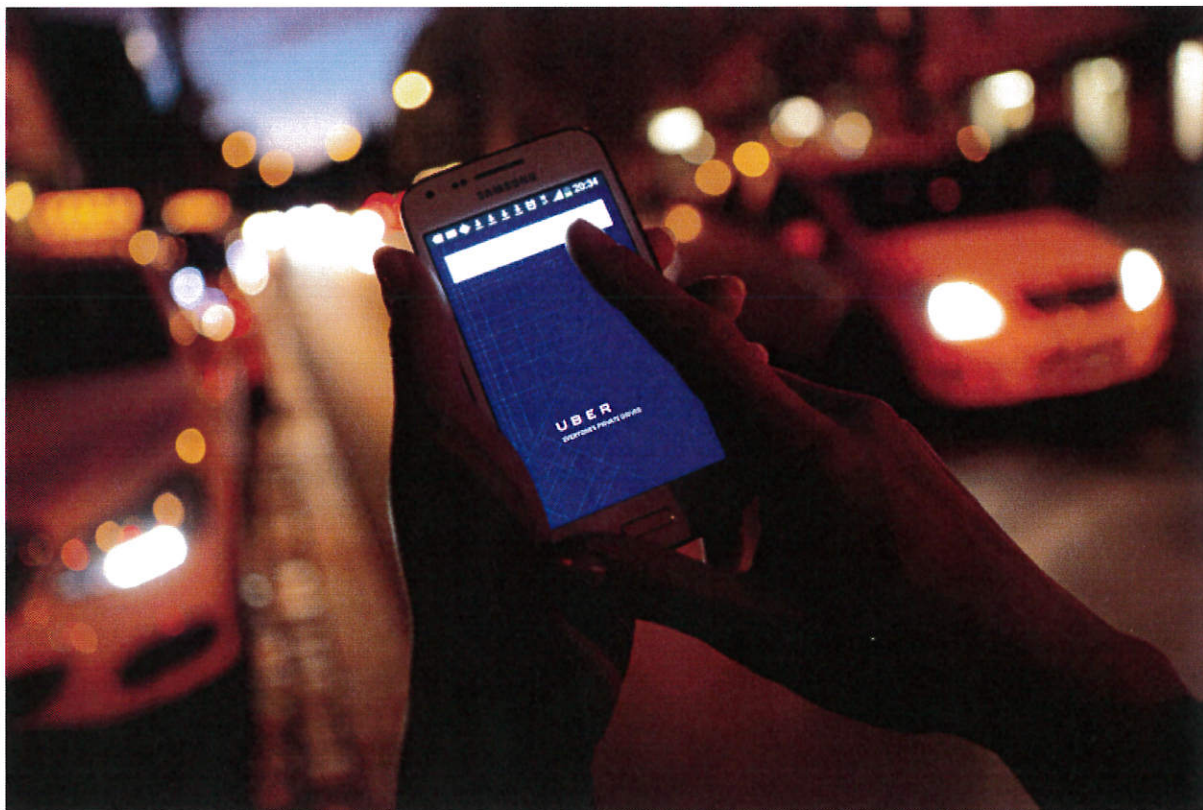
Jay Hathaway

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On the same day that Uber got bad news from the California Labor Commission, the *New York Post* reports another ill omen for the technology-company-and-definitely-not-a-car-service everyone loves to hate and use anyway: NYC has impounded nearly 500 Uber cars since April in a sting against illegal “street hails.”



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The NYC Taxi and Limousine Commission limits drivers of black cars and livery cars to pre-arranged trips. They're not allowed to compete with taxis for spontaneous street pickups. But that's apparently what 496 drivers did between late April and this week, and they had their cars seized for their trouble.

Uber officially prohibits its drivers from picking up random street fares, but it also doesn't pay for or own the cars its alleged non-employees drive. If those drivers start using their vehicles to make some money on the side, they bear all the risk themselves.

There were 14,000 Uber cars registered in NYC as of earlier this year, which is technically higher than the number of yellow cabs on the road, but Uber doesn't even come close to cabs when it comes to ride volume or hours driven.

One theory about the uptick in illegal fares, put forth by the New York State Federation of Taxi Drivers, is that Uber alone isn't enough for a driver to get by in NYC.

"If you're willing to risk breaking the law, you have to be willing to lose your car," taxi federation president Fernando Mateo told the *Post*, "I would recommend, go back to the basics. Everyone has an app. You can't make a living with just the Uber application."

Mateo is obviously biased when it comes to Uber, but there might be something to that. At the beginning of this year, Uber cut its fares dramatically across the U.S.—great for passengers, but not so great for drivers. In a blog post, the company assured drivers that they’d actually make *more* money because demand would go up.

In practice, though, it doesn’t work that way. A Philadelphia UberX driver, “Muhammad,” put it very succinctly to the Philly *City Paper*’s Emily Guendelsberger in May:

Overall, demand has increased. But as a human being, we can only drive maybe three trips in one hour. If you give me 300 trips, that won’t do me any good. That demand is for other people, not for me. So cutting the rate is increasing the total business, but the driver is worse off than before.

With Uber cutting profits for individual drivers (but profiting itself from the increased overall demand), it wouldn’t be that surprising for struggling drivers—who in some cases invested in new cars just to drive for Uber—to risk going outside the system to ensure their cars actually make them money.

[h/t Consumerist, Photo: Getty Images]